

REMARKS

Claims 51-91 were pending when last examined. In the present response, claims 51, 62, 71, 77, 81 and 84 have been amended. No new matter has been added. Support for the amendment can be found at least in FIGS. 2 and 3, and in the corresponding description of the specification.

Claim Rejections – 35 USC § 103

Claims 51-91 were rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 5,758,257 to Herz et al. (“Herz”), in view of U.S. Pat. No. 6,470,344 to Kothuri et al. (“Kothuri”). Applicants respectfully traverse the rejections.

Claim 51, as amended, recites a user preference description that has a hierarchical structure to describe preferences for filtering and searching, the hierarchical structure including a first parent preference element and a second parent preference element at the same level of the hierarchical structure, the first parent preference element having one or more first child preference elements, each of the first parent and first child preference elements including at least one multimedia preference description to identify preferred multimedia content, wherein the first parent preference element in the hierarchical structure includes a first preference condition that specifies a place to which the multimedia preference descriptions in the first parent and first child preference elements apply.

To establish *prima facie* obviousness, all the claim limitations must be taught or suggested by the prior art. *See, e.g.*, MPEP 2143.03. However, neither Herz nor Kothuri discloses or suggests that the first parent preference element in the hierarchical structure includes a first preference condition that specifies a place to which the multimedia preference descriptions in the first parent and first child preference elements apply. The Examiner acknowledged that Herz fails to teach a first parent preference element that includes the claimed first preference condition. The Examiner pointed to Kothuri for the missing subject matter. Kothuri, however, is also lacking.

Kothuri discloses techniques for managing large databases. *See* col. 1:9-26. Kothuri's database management system organizes, stores, and accesses the stored data using indexing techniques that are configured to manage data which are inherently multi-dimensional (such as two-dimensional geographic data) or data which have multiple attributes (such as sale data with attributes specifying the sold product and the time and region of the sale). *See* col. 1:27 to col. 2:17. Kothuri's index structure can have a hierarchical arrangement, and can be generated by clustering the stored data based on expected query patterns (such as yearly sales in states and cities). *See* col. 13:3-48.

Kothuri, however, fails to disclose or suggest that the index structure, or any other data structure of Kothuri, has a first parent preference element that includes a first preference condition that specifies a place to which the multimedia preference descriptions in the first parent and first child preference elements apply, as required by the claim. Although Kothuri discloses indexing multimedia data (see col. 2:45-61), it fails to disclose or suggest any multimedia preference description in a parent or a child element in its hierarchical index structure. Neither does Kothuri disclose or suggest that a preference condition in a particular parent element specifies a place to which a multimedia preference description in that parent element applies. Indeed, Kothuri discloses geographical and sales data that are inherently associated with different locations, but Kothuri lacks any condition that specifies a place to which a multimedia preference description applies. Thus, similar to Herz, Kothuri also fails to disclose that the first parent preference element in the hierarchical structure includes a first preference condition that specifies a place to which the multimedia preference descriptions in the first parent and first child preference elements apply, as required by the claim.

Furthermore, there is no motivation to combine and modify Herz and Kothuri in order to obtain the claimed preference condition. The Examiner suggested that "[o]ne would be motivated to do so to allow more efficient use of the data for querying/searching operations." Herz and Kothuri, however, perform very different searching operations. Kothuri's search retrieves data that has been indexed previously by the same system. In contrast, Herz's system does not require any prior indexing of the data to be retrieved by the search. Indeed,

Herz's system can receive characteristics of previously unknown video programs, and use those characteristics to select from the unknown video programs. Thus, Herz's system seems to lack the information based on which Kothuri could build its index structure. Accordingly, it is unclear how Kothuri could be combined with Herz "to allow more efficient use of the data for querying/searching operations," as suggested by the Examiner.

In addition, Kothuri discloses an index structure that organizes data, such as geographic data or sales data, that are inherently associated with different locations. In Herz's hierarchical structure of "moods," however, all the moods of the hierarchy are associated with a customer, or indirectly, with the customer's residence. As Herz's hierarchy is associated with a single location, there is no motivation to modify a particular parent "mood" in the hierarchy by adding a preference condition that specifies a place to which a multimedia preference description in that parent mood applies.

In sum, neither Herz nor Kothuri discloses or suggests the claimed preference condition. Herz and Kothuri also lack any motivation to combine and modify their subject matter in order to obtain the missing limitations of the claim. Thus, no *prima facie* obviousness has been established and claim 51 should be allowed.

Independent claims 62, 71, 77, 81 and 84 require preference conditions that are similar to that recited in claim 51. Thus claims 62, 71, 77, 81 and 84 are allowable for at least the same reasons as those discussed above with reference to claim 51. Dependent claims 52-61, 63-70, 72-76, 78-80, 82, 83, and 85-91 are allowable for at least the same reasons as their respective base claims.

CONCLUSION


Applicants respectfully request that the pending claims be allowed and the case passed to issue. Should the Examiner wish to discuss the Application, it is requested that the Examiner contact the undersigned at (415) 772-7493.

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